

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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Weiskopf  
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FILE: B-218087.3

DATE: March 11, 1985

MATTER OF: The Pangborn Company--  
Reconsideration

## DIGEST:

Lack of actual knowledge of GAO's Bid Protest Regulations does not excuse protester's failure to comply with the Regulations' requirement that a protest contain a detailed statement of the basis for protest, since the Regulations are published in the Federal Register and protesters therefore are charged with constructive knowledge of them.

The Pangborn Company requests that we reconsider our dismissal, dated January 31, 1985, of its protest under the Department of the Army's invitation for bids (IFB) No. DAAG47-84-B-0050. The protest, filed by telex January 28, stated as its basis only that "recipient [of the contract] was not in compliance with specification of the IFB." We dismissed the protest because it did not set forth a detailed statement of the legal and factual grounds of protest as required by our recently published Bid Protest Regulations, § 21.1(c)(4), 49 Fed. Reg. 49,417, 49,420 (1984)(to be codified at 4 C.F.R. § 21.1(c)(4)). The protester argues that, since it lacked knowledge of the new Regulations, we should consider the protest under our superseded Bid Protest Procedures upon which the protester allegedly relied; under those procedures, we permitted a protester that timely submitted a general basis for protest to augment the protest with a detailed statement if the statement was filed within 5 working days after the protester's receipt of our request for such a statement. See 4 C.F.R. § 21.2(d) (1984).<sup>1/</sup>

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<sup>1/</sup> This reconsideration request is in fact the protester's second request that we reopen the file. The first request, filed February 4, contended that the protester had stated a basis for protest and advised that detailed information would be forwarded within a week. We dismissed the request because it did not assert any factual or legal grounds that might warrant the reversal of our prior decision. Bid Protest Regulations, § 21.12(a).

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We affirm the dismissal.

Our new Regulations implement 31 U.S.C. §§ 3551-3556, as added by the Competition in Contracting Act (CICA), Pub. L. No. 98-369, § 2741, 98 Stat. 1175, 1199 (1984), which give the Comptroller General express statutory authority to decide bid protests and required him to prescribe such procedures "as may be necessary to the expeditious decision of protests." 31 U.S.C. § 3555. The filing requirement in issue here was necessitated as a practical matter by other CICA provisions that require this Office to notify the contracting agency of a protest within 1 day after its filing and further require that the agency generally furnish this Office with a report responding to the protest within 25 working days after such notice. 31 U.S.C. § 3553(b). Permitting the delayed filing of the specific basis for protest would hamper contracting agencies' ability to comply with the statutorily imposed time limitation for filing a report, in that it would impinge upon the allotted 25-day period. See Sabreliner Corp., B-218033, Mar. 6, 1985, 64 Comp. Gen. \_\_\_, 85-1 C.P.D. ¶ \_\_\_\_.

Concerning the implementation date of our Regulations, CICA required that we prescribe our new procedures no later than January 15, 1985, 31 U.S.C. § 3555(a), which coincided with the effective date of our statutory bid protest authority. In fact, our final rules were published in the Federal Register on December 20, 1984, following a 30-day period for public comment initiated by the publication of proposed regulations on September 17, 1984. 49 Fed. Reg. 36,386. The requirement that a protest contain a detailed statement of the basis for protest was the same in both versions.

The protester complains that it lacked knowledge of the new Regulations (although they were published more than a month before the protest's filing). Our view, however, consistently has been that protesters are charged with constructive notice of the procedures we have had published in the Federal Register, e.g., Ken's Trash Removal Service--Reconsideration, 63 Comp. Gen. 237 (1984), 84-1 C.P.D. ¶ 247, so that a protester's professed unawareness of our published procedures fails to provide a valid basis for waiving their requirements. Id.; Westwood Pharmaceuticals Inc., B-214603, July 25, 1984, 84-2 C.P.D. ¶ 111.

Since The Pangborn Company's protest failed to include a detailed statement of the basis for protest, as required by our published Regulations, the protest properly was dismissed. Our initial determination therefore is affirmed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel